

**IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

ATARI INTERACTIVE, INC.,

*Plaintiff*

v.

STATE FARM MUTUAL AUTOMOBILE  
INSURANCE COMPANY, *et al.*,

*Defendants.*

CIVIL ACTION NO: 3:24-cv-0704-D

**PLAINTIFF ATARI INTERACTIVE, INC.’S RESPONSE IN OPPOSITION TO  
DEFENDANTS STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY,  
THE MARKETING ARM, INC. AND AUGUST PASK  
PARTNERS LLC d/b/a HUDSON EDITORIAL’S MOTION TO DISMISS COMPLAINT**

Plaintiff Atari Interactive, Inc. (“Atari”), respectfully submits this Response in Opposition to Defendants State Farm Mutual Automobile Insurance Company (“State Farm”), The Marketing Arm, Inc. and August Pask Partners LLC d/b/a Hudson Editorial’s (collectively, “Defendants”) Motion to Dismiss [ECF No. 23].

As alleged in the Complaint, and confirmed by Defendants’ briefing, it is undisputed that Defendants unlawfully, and without license, misappropriated Atari’s intellectual property for use in a commercial advertisement. By doing so, Defendants disparaged Atari and caused substantial damage to Atari’s reputation and goodwill and ability to license its intellectual property to lawful licensees, for which Atari is entitled to redress for the harm caused by Defendants’ actions.

As set forth in Atari’s accompanying Brief in Opposition to Defendants’ Motion to Dismiss, Defendants’ motion should be denied because (1) Atari stated a valid claim for copyright

infringement, (2) Defendants' use of Atari's intellectual property was not *de minimis*, (3) Defendants patently commercial use of Atari's intellectual property does not constitute fair use, (4) Atari stated a valid claim for unjust enrichment, (5) Atari stated a valid claim for business disparagement, (6) Atari stated a valid claim for unfair competition, and (7) Atari stated a valid claim for false information and advertising.

Accordingly, Atari respectfully requests that this Honorable Court deny Defendants' Motion to Dismiss in its entirety.

Dated: July 9, 2024

Respectfully submitted,

By: /s/ Bryan A. Giribaldo

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*Attorneys for Plaintiff*

**CERTIFICATE OF SERVICE**

I hereby certify that on July 9, 2024, I caused the foregoing to be filed electronically with the Clerk of Court and to be served via the CM/ECF Filing System upon all counsel of record.

By: /s/Bryan A. Giribaldo  
Bryan A. Giribaldo